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OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Seghatol et al.	:	
Application No. 10/822,548	:	DECISION ON PETITION
Filed: April 12, 2004	:	
Attorney Docket No. 1550.36US03	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief within the time period provided in 37 CFR 41.37(a)(1). In reply to the final Office action mailed October 31, 2007, a Notice of Appeal was filed February 27, 2008 with a one month extension of time under the provisions of 37 CFR 1.136(a). On May 27, 2008, an appeal brief transmittal letter and an appeal brief fee were filed. Also, a one month extension of time was obtained under the provisions of 37 CFR 1.136(a). However, this May 27, 2008 filing did not include an appeal brief. Accordingly, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 28, 2008. See MPEP 1215.04. A communication indicating this status was mailed from the Office on October 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief; (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay.

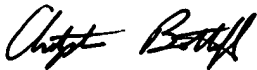
In addition, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the appeal brief submitted with the petition filed October 6, 2008.

A handwritten signature in black ink, appearing to read "Chris Bottorff", written in a cursive style.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Thomas F. Woods
P.O. Box 2528
Lyons, CO 80540